THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (M/S) No. 165 of 2006

Shri Sanjiv Harnal, S/O Shri Dina Nath Harnal,
R/O D-54, Sector-4, Defence Colony, Dehradun.

…… Petitioner.

Versus

1. Civil Judge (Senior Division)
   Dehradun.
2. Sri Dina Nath Harnal, S/O Shri Roop Singh Harnal,
   R/O 17, Araghar, Hardwar Road, Dehradun.
3. Sri Shri Subhasl Harnal, S/O Shir Dina Nath Harnal,
   R/O 17, Araghar, Hardwar Road, Dehradun.
4. Shri Bimal Harnal, S/O Shir Dina Nath Harnal,
   R/O 17 Araghar, Hardwar Road, Dehradun.

… Respondents.

Sri Kanwal Jit Singh, learned counsel for the petitioner.
Sri Nand Prasad, learned Standing Counsel for the respondent no. 1.

Dated February 25, 2006.

Hon'ble B.S.Verma, J.

Heard learned counsel.

The petitioner has filed the present writ petition for issuing a direction to the respondent no. 1 to decide the application for ad-interim injunction in Suit No. 168 of 2005, Shri Sanjiv Harnal Vs. Sri Dina Nath Harnal and others expeditiously.

Relevant facts of the case are that the petitioner filed Suit No. 168 of 2005 on 21.3.2005 before the court below against his father and brothers, respondent nos. 2 to 4 for cancellation of gift deeds as well as for restraining them from alienating or creating third party rights or also changing the nature of the same. Along with the plaint, an application for ad interim injunction under Order 39, Rules 1 and 2 CPC was also filed. The contesting respondents had filed a caveat. The trial court fixed 4.4.2005 for hearing of the application. The contesting respondents filed an appeal before the District Judge Dehradun, which too, was disposed of on 24.3.2005. The main grievance of the petitioner is that the application for ad interim

injunction has not so far been disposed of and now 4.4.2006 has been fixed in the case. Delay in disposal of temporary injunction application is causing injury and loss to the petitioner and the petitioner apprehends that the very purpose of his suit will be frustrated.

Considering the facts and circumstances of the case and the material on record, I direct the respondent no. 1 to deicde the ad-interim application under Order 39, Rule 1 and 2 of the CPC filed by the plaintiff- petitioner in Suit No. 168 of 2005 after hearing both the parties on 4-4-2006 or within six week from the date of production of certified of this order.

With the above observation, the writ petition is disposed of finally.

(B.S.Verma, J.)

RCP